

David McCandless

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA, CHARLESTON DIVISION

CASE NUMBER 2:06-CV-1754

FIREMAN'S FUND INSURANCE COMPANY, as
SUBROGEE for LIMEHOUSE & SONS, INC.,
Plaintiffs,
v.
AMERICAN EQUIPMENT CORPORATION, INC., ET AL.,
Defendants.

DEPOSITION OF
DAVID MCCANDLESS

At Raleigh, North Carolina
Tuesday, April 14, 2009
10:02 a.m.
Reported by: Lindsey D. Cline, CVR

Page 2

A P P E A R A N C E S

For the Plaintiff: Christopher M. Caputo, Esq.
LESS, GETZ & LIPMAN
100 Peabody Place
Suite 1000
Memphis, Tennessee 38103

For the Defendant, Brandt R. Horton, Esq.
Grove, et al: YOUNG CLEMENT RIVERS, LLP
28 Broad Street
Charleston, South Carolina 29401

For the Defendant, Patrick Smith, Esq.
American Equipment HARPER, LAMBERT & BROWN, P.A.
Company, Inc.: Suite 220, 420 E. Park Avenue
Greenville, South Carolina 29602

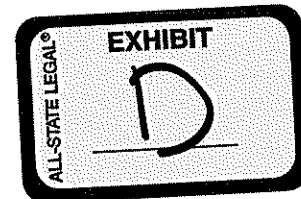
Page 3

T A B L E O F C O N T E N T S
E X A M I N A T I O N S

EXAMINATION	PAGE
Direct Examination by Mr. Caputo	6
Cross Examination by Mr. Horton	121
Redirect Examination by Mr. Caputo	132

T A B L E O F C O N T E N T S
E X H I B I T S

EXHIBITS	DESCRIPTION	MARKED/REFERENCED
Plaintiff's		
Number 1	Document Subpoena	10/
Number 2	David McCandless's Report	36/
Number 3	Paul Eason's Report	103/



Page 4

S T I P U L A T I O N S

It is hereby stipulated and agreed between the parties to this action, through their respective counsel of record:

1. The deposition of David McCandless may be taken on April 14, 2009, beginning at 10:02 a.m., at the offices of YOUNG, MOORE & HENDERSON, located in Raleigh, North Carolina, before Lindsey D'Anne Cline, Notary Public and Certified Court Reporter.
2. Said deposition shall be taken for the purpose of discovery or for use as evidence in this above entitled action or for both purposes.
3. Any objections of any party hereto as to notice of the taking of said deposition, or as to the time or place thereof or as to the competency of the person before whom the same shall be taken are deemed to have been met.
4. Objections to questions and motions to strike answers need not be made during the taking of this deposition but may be made for the first time during the progress of the trial of this case, or at any pretrial hearing held before any

Pages 1 to 4

David McCandless

Page 89

Page 91

1 Q. okay. Could you tell from a failure? Could you
2 tell whether a hose that had already failed
3 satisfied the SAE standards?
4 **A. I don't know the answer to that.**
5 Q. Okay. Is it because you've never thought of it or
6 because it's unknowable for some reason?
7 **A. Well, it's -- I haven't really considered that,**
8 **but when you're looking at one particular failure,**
9 **you have to assess the information related just to**
10 **that failure. You're not necessarily looking**
11 **at -- the performance standard may not be the**
12 **exact conditions that the hose is in and used, so**
13 **I don't -- I don't know that you can definitely**
14 **establish that connection.**
15 Q. Okay. Would every crimp specification have to
16 meet the SAE standards?
17 **A. It wouldn't have to, no.**
18 Q. So what is the purpose of the SAE standards?
19 **A. So that if -- Using Grove, if Grove wanted to buy**
20 **hoses from company A or from company B, they could**
21 **tell either manufacturer, "We need a hose that**
22 **meets SAE standard X," and the two manufacturers**
23 **may use completely different methods to achieve**
24 **that, but they could each supply Grove with a hose**

1 **inadequate, you would need to know -- you would**
2 **need to have a standard to compare it to to say**
3 **what made it inadequate.**
4 **You can't say just because it failed**
5 **that it was inadequate because this is a part**
6 **that, if left in service, is going to fail. It**
7 **will fail eventually if you leave it in service.**
8 **So just because it fails, that doesn't mean that**
9 **there was a problem with it. It doesn't mean that**
10 **it was defective.**
11 **In order to make that connection, you**
12 **need to know what defines "defective" and what**
13 **would define "defective" in a crimp is the**
14 **dimensions of the crimp. Either it was too big,**
15 **either it was too small, either it didn't have**
16 **enough compression on it. That's what would**
17 **define "defective," not, "It came apart."**
18 Q. Well, wouldn't the crimp specification that is set
19 take into account the expected useful life of the
20 product?
21 **A. It would take into account the environment or,**
22 **again, whatever standard they were designing the**
23 **hose to, but that standard doesn't define what use**
24 **environment the hose necessarily sees, so there's**

Page 90

Page 92

1 **that would meet that performance. It provides a**
2 **uniform goal for all the different hose**
3 **manufacturers to use.**
4 Q. So that would be a document that would be issued
5 by Grove that set forth to its manufacturers, "You
6 need to meet these performance standards"?
7 **A. Well, no, SAE would create the document. And I**
8 **don't know in this -- on this particular crane if**
9 **SAE is the governing body.**
10 Q. I understand.
11 **A. But they have standards for hoses.**
12 Q. Right.
13 **A. But Grove doesn't author those. Grove may look at**
14 **it and say, "Oh, that particular SAE standard is**
15 **the one we want to specify for a particular hose."**
16 Q. Do you know whether Grove requested that any
17 standards be met with respect to this hose and
18 this fitting?
19 **A. I have no idea.**
20 Q. Now, why would the crimp specification be
21 significant to the determination of why the hose
22 fitting assembly failed?
23 **A. Well, it's significant in that if you're trying to**
24 **say that the crimp was substandard or defective or**

1 **kind of a disconnect there that you can't**
2 **automatically assume.**
3 Q. Well, wouldn't the standard that the hose was
4 manufactured to have to at least meet the
5 published useful life of the hose?
6 MR. HORTON: Object to the form.
7 THE WITNESS: No, because there's not -- this
8 hose may have a different life, depending on what
9 component you put it on or what machine you put it
10 on or what environment it's in. It may have a
11 life of X number of years when you put it on a
12 bulldozer, but it may have a life half that if you
13 put it on an airplane.
14 Q. (Mr. Caputo) Right.
15 **A. There's -- The expected life is not the hose**
16 **manufacturer's bailiwick.**
17 Q. Okay. So let me ask you a different way. If
18 there is no evidence of abnormal wear and tear to
19 the hose and there's no evidence that some trauma,
20 external trauma, pulled the hose out, okay,
21 assuming those facts --
22 **A. Okay.**
23 Q. -- if a hose fails by coming loose from its
24 fitting prior to the expected end of its useful

Pages 89 to 92

David McCandless

Page 129

Page 131

1 experience with failure analysis?
 2 MR. CAPUTO: Objection.
 3 THE WITNESS: Yes.
 4 Q. (Mr. Horton) Is this similar to the failure
 5 analysis that Mr. Eason based his opinion on?
 6 MR. CAPUTO: Objection.
 7 THE WITNESS: I don't know that ours are the
 8 same because I have different conclusions and
 9 things based on reviewing the same information.
 10 But I don't believe he, as we've said before, has
 11 a technical basis to arrive at some of the
 12 opinions that he did.
 13 Q. (Mr. Horton) Okay. Well, not the actual
 14 conclusions, but just based upon the scientific
 15 principles underlying his conclusion and your
 16 conclusion, just taking aside for a moment the
 17 fact that they're different.
 18 Is your experience with failures
 19 analysis similar to his experience with failures
 20 analysis? Is it the same body of science or
 21 technical underlying?
 22 MR. CAPUTO: Objection.
 23 THE WITNESS: Similar, yes.
 24 Q. (Mr. Horton) Okay. In your opinion, is there any

1 based upon scientific methods?
 2 MR. CAPUTO: Objection.
 3 THE WITNESS: No, I don't believe so, because
 4 there's not a known standard to base it on.
 5 Q. (Mr. Horton) Okay. In your review of Dr. Eason's
 6 report, his deposition testimony, and his -- and
 7 the general background of FMEA, is Dr. Eason's
 8 conclusion based upon scientific knowledge?
 9 MR. CAPUTO: Objection.
 10 THE WITNESS: No, I don't believe that it is.
 11 Q. (Mr. Horton) Is Dr. Eason's conclusion based on
 12 reasonable technical knowledge?
 13 MR. CAPUTO: Objection.
 14 THE WITNESS: No, I don't believe that it is.
 15 Q. (Mr. Horton) All right. In your opinion, after
 16 having viewed Dr. Eason's deposition testimony and
 17 expert report and your familiarity with FMEA, can
 18 Dr. Eason's conclusions be the product of reliable
 19 principles and methods?
 20 MR. CAPUTO: Objection.
 21 THE WITNESS: No, I don't believe so because
 22 there's not any -- there's not a known standard
 23 that is the basis of the opinion.
 24 Q. (Mr. Horton) Okay. All right. I think that may

Page 130

Page 132

1 way to -- using failures analysis -- to conclude
 2 that a crimp is -- or a fitting is too loosely
 3 crimped without knowing the specifications?
 4 **A. No, I don't believe so.**
 5 Q. Yet that's what Dr. Eason concluded, isn't it?
 6 **A. If we're talking about an FMEA, which is a Failure**
 7 **Mode and Effects Analysis, that type of analysis**
 8 **presumes a failure and you examine the results of**
 9 **it to try to determine what failures you don't**
 10 **want or how to address those modes of failure.**
 11 **I don't know that that particular**
 12 **analysis in any way can tell you whether a crimp**
 13 **was too loose or too tight, given the information**
 14 **we have here. It's not -- it's not the process**
 15 **you would use.**
 16 Q. Can Dr. Eason's conclusion be based upon technical
 17 expertise?
 18 MR. CAPUTO: Objection.
 19 THE WITNESS: No.
 20 Q. (Mr. Horton) In your opinion, as someone who
 21 does, as you call it, FMEA --
 22 **A. Yes.**
 23 Q. In your opinion, is someone who performs or is
 24 familiar with FMEA, is Dr. Eason's conclusion

1 be all the questions I have. I appreciate -- I
 2 appreciate your time.
 3 REDIRECT EXAMINATION BY MR. CAPUTO:
 4 Q. Just a follow up. Exactly what's the known
 5 standard that is lacking in Dr. Eason's opinion?
 6 **A. The crimp specifications.**
 7 Q. Okay. So -- But for the crimp specification,
 8 there weren't any other standards that he would
 9 need to base his analysis on? Just -- It should
 10 be attested whether the spec was met or not?
 11 **A. I think that's absolutely required to reach the**
 12 **opinions that he has. I mean, his basic opinion**
 13 **is that this crimp was too loosely crimped.**
 14 Q. Uh-huh.
 15 **A. He can't define what loose is. And the only way**
 16 **you're going to define that is with the**
 17 **specifications of the crimp.**
 18 Q. And that's something the hose manufacturer would
 19 have?
 20 **A. Typically, yes.**
 21 Q. And that's something that Grove has not shared
 22 with you?
 23 **A. I do not have those specifications.**
 24 Q. Okay. Do you know whether Grove has ever

Pages 129 to 132